

September 12, 2013

Shirley Concolino
City Clerk Sacramento
915 I Street, New City Hall 5th Floor
Sacramento, CA 95814

Re: Your Request for Advice
Our File No. A-13-119

Dear Ms. Concolino:

This letter responds to your request for advice regarding the campaign provisions of the Political Reform Act (the “Act”).¹

QUESTIONS

1. Whether Section 84203(b) and 84204 of the Act can be modified to include email as a method of delivery and exclude facsimile transmission?
2. Whether the Statement of Organization Form 410 copy can be modified to include email as a method of delivery and exclude facsimile transmission?

CONCLUSIONS

1. Section 84203(b) and 84204 of the Act may be modified to include email as a method of delivery for late contribution and late independent expenditures reports. However, it may not be modified to exclude facsimile transmission.
2. The Statement of Organization Form 410 copy may also be modified to include email as a method of delivery, but facsimile transmission may not be excluded.

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

FACTS

The City of Sacramento is dedicated to reducing its carbon footprint, and creating paperless processes whenever possible. As part of this effort, the City Clerk is interested in keeping as many filings submitted electronic as possible. This will help reduce the number of filings received.

ANALYSIS

Section 84203(b) and Section 84204 state that a late contribution or late independent expenditure shall be reported by facsimile transmission, guaranteed overnight delivery, or personal delivery within 24 hours of the time it is made.

Where a statute or regulation provides that a report or statement can be faxed, the agency can also permit the reports or statements to be sent by email where the agency has set up a procedure to accept them by email. However, facsimile transmission may not be excluded as a method of delivery since the statute explicitly permits such method.

The Statement of Organization Form 410 states that filings must be made by fax, guaranteed overnight delivery, personal delivery, or online (if online filing is available).

Form 410 copy may also be modified to include email as a method of delivery as long as the agency receiving the Form has arranged to accept them by email. But facsimile transmission may not be excluded since the Form explicitly allows fax as a method of filing.

If you have other questions on this matter, please contact me at (916) 322-5660.

Sincerely,

Zackery P. Morazzini
General Counsel

By: Heidi G. Kim
Legal Intern, Legal Division

HGK:jgl